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SENATE BILL 1186

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO CULTURAL AFFAIRS; CREATING THE MEDIA ARTS AND ENTERTAINMENT DEPARTMENT; PROVIDING FOR THE COORDINATION AND OVERSIGHT OF MEDIA ARTS IN THE STATE; PROVIDING POWERS AND DUTIES; AMENDING THE FILM PRODUCTION TAX CREDIT; CREATING A FUND; TRANSFERRING PERSONNEL, FUNCTIONS, MONEY, APPROPRIATIONS, OTHER PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005; AMENDING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 12 of this act may be cited as the "Media Arts and Entertainment Department Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the .167620.1

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1 Media Arts and Entertainment Department Act is to create a
2 single, unified department to administer all laws and exercise
3 all functions related to the development of media arts and
4 entertainment in New Mexico and the creation and implementation
5 of media arts and entertainment programs, including training
6 and facilities.

7 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
8 Media Arts and Entertainment Department Act:

9 A. "department" means the media arts and
10 entertainment department; and

11 B. "executive director" means the executive
12 director of the media arts and entertainment department.

13 Section 4. [NEW MATERIAL] DEPARTMENT ESTABLISHED.--The
14 "media arts and entertainment department" is created in the
15 executive branch. The department is not a cabinet department.
16 The department includes the following divisions:

17 A. administrative services division;

18 B. film division, including the following bureaus:

19 (1) production services bureau;

20 (2) New Mexico filmmakers bureau; and

21 (3) film museum bureau; and

22 C. general media arts and entertainment division,
23 including the following bureaus:

24 (1) corporate services, games, animation and
25 digital imaging technologies bureau;

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1 (2) music bureau; and

2 (3) media arts education bureau.

3 Section 5. [NEW MATERIAL] EXECUTIVE DIRECTOR OF MEDIA
4 ARTS AND ENTERTAINMENT.--The chief executive and administrative
5 officer of the department is the "executive director of media
6 arts and entertainment". The executive director shall be
7 appointed by the governor with the consent of the senate and
8 shall hold office at the pleasure of the governor.

9 Section 6. [NEW MATERIAL] EXECUTIVE DIRECTOR--POWERS AND
10 DUTIES.--

11 A. The executive director is responsible to the
12 governor for the operation of the department. It is the
13 executive director's duty to manage all operations of the
14 department and to administer and enforce the laws with which
15 the executive director or the department is charged.

16 B. To perform the executive director's duties, the
17 executive director has every power expressly enumerated in the
18 laws, whether granted to the executive director or the
19 department or any division of the department, except where
20 authority conferred upon any division is explicitly exempted
21 from the executive director's authority by statute. In
22 accordance with these provisions, the executive director shall:

23 (1) except as otherwise provided in the Media
24 Arts and Entertainment Department Act, exercise general
25 supervisory and appointing authority over all department

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1 employees, subject to any applicable personnel laws and rules;

2 (2) delegate authority to subordinates as the
3 executive director deems necessary and appropriate, clearly
4 delineating such delegated authority and the limitations
5 thereto;

6 (3) organize the department into those
7 organizational units that the executive director deems will
8 enable it to function most efficiently, subject to any
9 provisions of law requiring or establishing specific
10 organizational units;

11 (4) within the limitations of available
12 appropriations and applicable laws, employ and fix the
13 compensation of those persons necessary to discharge the
14 executive director's duties;

15 (5) take administrative action by issuing
16 orders and instructions, not inconsistent with the law, to
17 assure implementation of and compliance with the provisions of
18 law for whose administration or execution the executive
19 director is responsible and to enforce those orders and
20 instructions by appropriate administrative action or actions in
21 the courts;

22 (6) conduct research and studies that will
23 improve the operations of the department and the provision of
24 services to the citizens of the state;

25 (7) provide courses of instruction and

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1 practical training for employees of the department and other
2 persons involved in the administration of programs, with the
3 objective of improving the operations and efficiency of
4 administration; and

5 (8) prepare an annual budget of the
6 department.

7 C. The executive director may apply for and
8 receive, with the governor's approval, in the name of the
9 department any public or private funds, including United States
10 government funds, available to the department to carry out its
11 programs, duties or services.

12 D. The executive director may make and adopt such
13 reasonable and procedural rules as may be necessary to carry
14 out the duties of the department and its divisions. No rule
15 promulgated by the director of any division in carrying out the
16 functions and duties of the division shall be effective until
17 approved by the executive director, unless otherwise provided
18 by law. Unless otherwise provided by law, no rule affecting
19 any person or agency outside the department shall be adopted,
20 amended or repealed without a public hearing on the proposed
21 action before the executive director or a hearing officer
22 designated by the executive director. The public hearing shall
23 be held in Santa Fe unless otherwise permitted by statute.
24 Notice of the subject matter of the rule, the action proposed
25 to be taken, the time and place of the hearing, the manner in

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1 which interested persons may present their views and the method
2 by which copies of the proposed rule, proposed amendment or
3 repeal of an existing rule may be obtained shall be published
4 once at least thirty days prior to the hearing date in a
5 newspaper of general circulation and mailed at least thirty
6 days prior to the hearing date to all persons who have made a
7 written request for advance notice of hearing. All rules shall
8 be filed in accordance with the State Rules Act.

9 Section 7. [NEW MATERIAL] DEPARTMENT--ADDITIONAL
10 DUTIES.--The department shall:

11 A. develop and implement a strategic plan for
12 building a media arts and entertainment infrastructure in New
13 Mexico, including studios and postproduction facilities and a
14 trained workforce to provide all technical and professional
15 services required by media arts and entertainment, including
16 video gaming, animation and other digital visualization
17 industries;

18 B. actively recruit filmmakers and production
19 companies to film in New Mexico;

20 C. actively recruit media arts production, media-
21 related and entertainment companies to locate their businesses
22 in New Mexico;

23 D. assist in designing workforce training programs
24 for film production and other positions in media arts and
25 entertainment;

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1 E. develop, update and publish directories of
2 personnel, services, venues, locations and other information
3 pertaining to media arts and entertainment, including film and
4 related media and music;

5 F. promote and preserve New Mexico's musical
6 traditions and music industry;

7 G. coordinate and oversee media-related programs
8 that receive state funding; and

9 H. coordinate and oversee the creation and
10 sustainability of special media-related education or
11 entertainment projects of state agencies or institutions and
12 assist other state agencies and institutions in developing
13 media arts and entertainment programs for the target
14 populations they serve.

15 Section 8. [NEW MATERIAL] DIVISION DIRECTORS.--The
16 executive director shall appoint, with the approval of the
17 governor, "directors" of the divisions established within the
18 department. The positions so appointed are exempt from the
19 Personnel Act.

20 Section 9. [NEW MATERIAL] BUREAU CHIEFS.--The executive
21 director shall establish within each division such "bureaus" as
22 the executive director deems necessary to carry out the
23 provisions of the Media Arts and Entertainment Department Act.
24 The executive director shall appoint a "chief" to be the
25 administrative head of any such bureau.

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1 Section 10. ~~[NEW MATERIAL]~~ ADMINISTRATIVE SERVICES
2 DIVISION--DUTIES.--

3 A. The administrative services division of the
4 department shall provide administrative services to the
5 department, including keeping all official records of the
6 department and providing clerical services in the areas of
7 personnel and budget preparation.

8 B. In addition to its other duties, the division
9 shall coordinate long- and short-term planning of the
10 department and administer programs and grants that have been
11 assigned generally to the department by the governor or by law.

12 Section 11. ~~[NEW MATERIAL]~~ ORGANIZATIONAL UNITS OF
13 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
14 INFORMATION.--Those organizational units of the department and
15 the officers of those units specified by law shall have all of
16 the powers and duties enumerated in the specific laws involved.
17 However, the carrying out of those powers and duties shall be
18 subject to the direction and supervision of the executive
19 director, and the executive director shall retain the final
20 decision-making authority and responsibility for the
21 administration of any such laws as provided in Subsection B of
22 Section 6 of the Media Arts and Entertainment Department Act.
23 The department shall have access to all records, data and
24 information of other state departments, agencies and
25 institutions, including its own organizational units, not

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1 specifically held confidential by law.

2 Section 12. Section 9-15-4.1 NMSA 1978 (being Laws 2003,
3 Chapter 97, Section 1, as amended) is recompiled into the Media
4 Arts and Entertainment Department Act and is amended to read:

5 "GOVERNOR'S COUNCIL ON FILM AND MEDIA INDUSTRIES--
6 CREATED--MEMBERSHIP--EXECUTIVE BOARD.--

7 A. The "governor's council on film and media
8 industries" is created to advise the department and the
9 governor on ways to promote film production in New Mexico,
10 assist in the design and implementation of the department's
11 strategic plan for building a media infrastructure in the
12 state, assist in designing a workforce training program for
13 film production and make recommendations for incentives and
14 funding for these efforts.

15 B. The governor's council on film and media
16 industries shall be composed of no more than thirty members
17 appointed by the governor for four-year staggered terms;
18 provided that the initial appointments shall be made so that
19 one-half of the members shall be appointed for two-year terms
20 and one-half of the members shall be appointed for four-year
21 terms. Terms shall expire on January 1.

22 C. From the membership of the governor's council on
23 film and media industries, the governor shall appoint a seven-
24 member "executive board". At least five members of the
25 executive board shall have experience in some aspect of film

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1 production. The executive board shall:

2 (1) with the approval of the [~~secretary~~]
3 executive director, create subcommittees of the governor's
4 council on film and media industries and name the [~~chairmen~~]
5 chair of those subcommittees;

6 (2) coordinate activities of the subcommittees
7 and the governor's council on film and media industries; and

8 (3) develop recommendations pertaining to the
9 charges of the governor's council on film and media industries
10 for the consideration of the [~~governor's~~] council [~~on film and~~
11 ~~media industries~~].

12 D. The governor shall name the [~~chairman~~] chair of
13 the governor's council on film and media industries, who shall
14 serve as the [~~chairman~~] chair of the executive board. The
15 [~~governor's~~] council [~~on film and media industries~~] may elect
16 such other officers as it deems necessary. The [~~governor's~~]
17 council [~~on film and media industries~~] shall meet at the call
18 of the [~~chairman~~] chair, at least quarterly. Members of the
19 [~~governor's~~] council [~~on film and media industries~~] may receive
20 per diem and mileage for travel within New Mexico as provided
21 in the Per Diem and Mileage Act, but shall receive no other
22 compensation, perquisite or allowance.

23 E. Staff for the governor's council on film and
24 media industries shall be provided by the department.

25 F. The governor's council on film and media

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1 industries shall report to the department, the governor and the
2 legislature by December 1 of each year on its activities and
3 recommendations."

4 Section 13. Section 7-2F-1 NMSA 1978 (being Laws 2002,
5 Chapter 36, Section 1, as amended) is amended to read:

6 "7-2F-1. FILM PRODUCTION TAX CREDIT.--

7 A. The tax credit created by this section may be
8 referred to as the "film production tax credit". An eligible
9 film production company may apply for, and the taxation and
10 revenue department may allow, a tax credit in an amount equal
11 to the percentage specified in Subsection B of this section
12 of:

13 (1) direct production expenditures made in
14 New Mexico that are directly attributable to the production
15 in New Mexico of a film or commercial audiovisual product and
16 that are subject to taxation by the state of New Mexico; and

17 (2) postproduction expenditures made in New
18 Mexico that are:

19 (a) directly attributable to the
20 production of a commercial film or audiovisual product;

21 (b) for services performed in New
22 Mexico; and

23 (c) subject to taxation by the state
24 of New Mexico.

25 B. Except as provided in Subsection C of this

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1 section, the percentage to be applied in calculating the
2 amount of the film production tax credit is:

3 (1) ~~[twenty]~~ twenty-five percent; and

4 (2) ~~[for taxable years beginning prior to~~
5 ~~January 1, 2009, an additional five percent.~~

6 ~~C. The additional five percent tax credit amount~~
7 ~~pursuant to Paragraph (2) of Subsection B of this section~~
8 ~~shall not be available with respect to expenditures~~
9 ~~attributable to a production for which the film production~~
10 ~~company receives a tax credit pursuant to the federal new~~
11 ~~markets tax credit program] thirty percent of the total~~
12 ~~wages, salaries and other compensation of the keys who are~~
13 ~~New Mexico residents if:~~

14 (a) seventy-five percent of the keys
15 in below-the-line positions on the project are New Mexico
16 residents;

17 (b) the project is covered by a
18 collective bargaining agreement; and

19 (c) the keys are members of a union
20 local whose primary jurisdiction is New Mexico.

21 ~~[D.]~~ C. The film production tax credit shall not
22 be claimed with respect to direct production expenditures or
23 post-production expenditures for which the film production
24 company has delivered a nontaxable transaction certificate
25 pursuant to Section 7-9-86 NMSA 1978.

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1 ~~[E-]~~ D. A long-form narrative film production for
2 which the film production tax credit is claimed pursuant to
3 Paragraph (1) of Subsection A of this section shall contain
4 an acknowledgment that the production was filmed in New
5 Mexico. A copy or print shall be made available to the New
6 Mexico film museum prior to its general release in New Mexico
7 for the purposes of a one-time exhibition.

8 ~~[F-]~~ E. To be eligible for the film production
9 tax credit, a film production company shall submit to the
10 ~~[New Mexico film division of the economic development]~~ media
11 arts and entertainment department information required by the
12 ~~[division]~~ department to demonstrate conformity with the
13 requirements of this section and shall agree in writing:

14 (1) to pay all obligations the film
15 production company has incurred in New Mexico;

16 (2) to publish, at completion of principal
17 photography, a notice at least once a week for three
18 consecutive weeks in local newspapers in regions where
19 filming has taken place to notify the public of the need to
20 file creditor claims against the film production company by a
21 specified date;

22 (3) that outstanding obligations are not
23 waived should a creditor fail to file by the specified date;
24 and

25 (4) to delay filing of a claim for the film

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1 production tax credit until the [~~New Mexico film division~~]
2 media arts and entertainment department delivers written
3 notification to the taxation and revenue department that the
4 film production company has fulfilled all requirements for
5 the credit.

6 [G.] F. The [~~New Mexico film division~~] media arts
7 and entertainment department shall determine the eligibility
8 of the company and shall report this information to the
9 taxation and revenue department in a manner and at times the
10 [~~economic development~~] media arts and entertainment
11 department and the taxation and revenue department shall
12 agree upon.

13 [H.] G. To receive a film production tax credit,
14 a film production company shall apply to the taxation and
15 revenue department on forms and in the manner the department
16 may prescribe. The application shall include a certification
17 of the amount of direct production expenditures or post-
18 production expenditures made in New Mexico with respect to
19 the film production for which the film production company is
20 seeking the film production tax credit. If the requirements
21 of this section have been complied with, the taxation and
22 revenue department shall approve the film production tax
23 credit and issue a document granting the tax credit.

24 [~~F.~~] H. The film production company may apply all
25 or a portion of the film production tax credit granted

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1 against personal income tax liability or corporate income tax
2 liability. If the amount of the film production tax credit
3 claimed exceeds the film production company's tax liability
4 for the taxable year in which the credit is being claimed,
5 the excess shall be refunded."

6 Section 14. Section 7-2F-2 NMSA 1978 (being Laws 2003,
7 Chapter 127, Section 2, as amended) is amended to read:

8 "7-2F-2. DEFINITIONS.--As used in Chapter 7, Article 2F
9 NMSA 1978:

10 A. "commercial audiovisual product" means a film
11 or a videogame intended for commercial exploitation;

12 B. "below-the-line" means all the employees of a
13 film production project whose wages, salaries or other
14 compensation are fixed costs of the production and include
15 the non-starring cast members and the technical crew, as well
16 as the film studio employees and the personnel costs of the
17 technical equipment, travel, location and catering costs and
18 refers to the early studio days when the budget top-sheet
19 would literally have a line separating the above-the-line
20 principals of film investment costs and the below-the-line
21 fixed costs;

22 [~~B.~~] C. "direct production expenditure" means a
23 transaction that is subject to taxation in New Mexico,
24 including:

25 (1) payment of wages, fringe benefits or

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1 fees for talent, management or labor to a person who is a New
2 Mexico resident for purposes of the Income Tax Act;

3 (2) payment to a personal services
4 corporation for the services of a performing artist if:

5 (a) the personal services corporation
6 pays gross receipts tax in New Mexico on those payments; and

7 (b) the performing artist receiving
8 payments from the personal services corporation pays New
9 Mexico income tax; and

10 (3) any of the following provided by a
11 vendor:

12 (a) the story and scenario to be used
13 for a film;

14 (b) set construction and operations,
15 wardrobe, accessories and related services;

16 (c) photography, sound
17 synchronization, lighting and related services;

18 (d) editing and related services;

19 (e) rental of facilities and
20 equipment;

21 (f) leasing of vehicles;

22 (g) food or lodging;

23 (h) airfare if purchased through a New
24 Mexico-based travel agency or travel company;

25 (i) insurance coverage and bonding if

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1 purchased through a New Mexico-based insurance agent; and

2 (j) other direct costs of producing a
3 film in accordance with generally accepted entertainment
4 industry practice;

5 ~~[G.]~~ D. "federal new markets tax credit program"
6 means the tax credit program codified as Section 45D of the
7 United States Internal Revenue Code of 1986, as amended;

8 ~~[D.]~~ E. "film" means a single media or multimedia
9 program, excluding advertising messages other than national
10 or regional advertising messages intended for exhibition,
11 that:

12 (1) is fixed on film, digital medium,
13 videotape, computer disc, laser disc or other similar
14 delivery medium;

15 (2) can be viewed or reproduced;

16 (3) is not intended to and does not violate
17 a provision of Chapter 30, Article 37 NMSA 1978; and

18 (4) is intended for reasonable commercial
19 exploitation for the delivery medium used;

20 ~~[E.]~~ F. "film production company" means a person
21 that produces one or more films; ~~[and]~~

22 G. "key" means a manager of a film production
23 department that is a below-the-line component in the
24 production's budget; and

25 ~~[F.]~~ H. "postproduction expenditure" means an

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1 expenditure that occurs after the completion of principal and
2 ongoing photography, including an expenditure for editing,
3 Foley recording, automatic dialogue replacement, sound
4 editing, special effects, including computer-generated
5 imagery or other effects, scoring and music editing,
6 beginning and end credits, negative cutting, soundtrack
7 production, dubbing, subtitling or addition of sound or
8 visual effects; but not including an expenditure for
9 advertising, marketing, distribution or expense payments."

10 Section 15. Section 7-9-86 NMSA 1978 (being Laws 1995,
11 Chapter 80, Section 1, as amended) is amended to read:

12 "7-9-86. DEDUCTION--GROSS RECEIPTS TAX--SALES TO
13 QUALIFIED FILM PRODUCTION COMPANY.--

14 A. Receipts from selling or leasing property and
15 from performing services may be deducted from gross receipts
16 or from governmental gross receipts if the sale, lease or
17 performance is made to a qualified production company that
18 delivers a nontaxable transaction certificate to the seller,
19 lessor or performer.

20 B. For the purposes of this section:

21 (1) "film" means a single media or
22 multimedia program, including an advertising message, that:

23 (a) is fixed on film, digital medium,
24 videotape, computer disc, laser disc or other similar
25 delivery medium;

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- 1 (b) can be viewed or reproduced;
2 (c) is not intended to and does not
3 violate a provision of Chapter 30, Article 37 NMSA 1978; and
4 (d) is intended for reasonable
5 commercial exploitation for the delivery medium used;

6 (2) "production company" means a person that
7 produces one or more films for exhibition in theaters, on
8 television or elsewhere;

9 (3) "production costs" means the costs of
10 the following:

11 (a) a story and scenario to be used
12 for a film;

13 (b) salaries of talent, management and
14 labor, including payments to personal services corporations
15 for the services of a performing artist;

16 (c) set construction and operations,
17 wardrobe, accessories and related services;

18 (d) photography, sound
19 synchronization, lighting and related services;

20 (e) editing and related services;

21 (f) rental of facilities and
22 equipment; or

23 (g) other direct costs of producing
24 the film in accordance with generally accepted entertainment
25 industry practice; and

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1 (4) "qualified production company" means a
2 production company that meets the provisions of this section
3 and has registered or will register with the ~~[New Mexico film~~
4 ~~division of the economic development]~~ media arts and
5 entertainment department.

6 C. A qualified production company may deliver the
7 nontaxable transaction certificates authorized by this
8 section only with respect to production costs."

9 Section 16. Section 7-27-5.26 NMSA 1978 (being Laws
10 2000 (2nd S.S.), Chapter 6, Section 2, as amended by Laws
11 2005, Chapter 101, Section 2 and by Laws 2005, Chapter 106,
12 Section 1) is amended to read:

13 "7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW
14 MEXICO.--

15 A. No more than five percent of the market value
16 of the severance tax permanent fund may be invested in New
17 Mexico film private equity funds or a New Mexico film project
18 under this section.

19 B. If an investment is made under this section,
20 not more than fifteen million dollars (\$15,000,000) of the
21 amount authorized for investment pursuant to Subsection A of
22 this section shall be invested in any one New Mexico film
23 private equity fund or any one New Mexico film project.

24 C. The state investment officer shall make
25 investments pursuant to this section only upon approval of

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1 the state investment council after a review by the private
2 equity investment advisory committee and the ~~[New Mexico film~~
3 ~~division of the economic development]~~ media arts and
4 entertainment department. The state investment officer may
5 make debt or equity investments pursuant to this section only
6 in New Mexico film projects or New Mexico film private equity
7 funds that invest only in film projects that:

8 (1) are filmed wholly or substantially in
9 New Mexico;

10 (2) have shown to the satisfaction of the
11 ~~[New Mexico film division]~~ media arts and entertainment
12 department that a distribution contract is in place with a
13 reputable distribution company;

14 (3) have agreed that, while filming in New
15 Mexico, a majority of the production crew will be New Mexico
16 residents;

17 (4) have posted a completion bond that has
18 been approved by the ~~[New Mexico film division]~~ media arts
19 and entertainment department; provided that a completion bond
20 shall not be required if the fund or project is guaranteed
21 pursuant to Paragraph (5) of this subsection; and

22 (5) have obtained a full, unconditional and
23 irrevocable guarantee of repayment of the invested amount in
24 favor of the severance tax permanent fund:

25 (a) from an entity that has a credit

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1 rating of not less than Baa or BBB by a national rating
2 agency;

3 (b) from a substantial subsidiary of
4 an entity that has a credit rating of not less than Baa or
5 BBB by a national rating agency;

6 (c) by providing a full, unconditional
7 and irrevocable letter of credit from a United States
8 incorporated bank with a credit rating of not less than A by
9 a national rating agency; or

10 (d) from a substantial and solvent
11 entity as determined by the state investment council in
12 accordance with its standards and practices; or

13 (6) if not guaranteed pursuant to Paragraph
14 (5) of this subsection, have obtained no less than [~~one-~~
15 ~~third~~] two-thirds of the estimated total production costs
16 from other sources as approved by the state investment
17 officer. The state investment officer shall consider the
18 economic development return to the state of local area in
19 approving the investment.

20 D. The state investment officer may loan at a
21 market rate of interest, with respect to an eligible New
22 Mexico film project, up to eighty percent of an expected and
23 estimated film production tax credit available to a film
24 production company pursuant to the provisions of Section
25 7-2F-1 NMSA 1978; provided that the film production company

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1 agrees to name the state investment officer as its agent for
2 the purpose of filing an application for the film production
3 tax credit to which the company is entitled if the company
4 does not apply for the film production tax credit. The [~~New~~
5 ~~Mexico film division of the economic development~~] media arts
6 and entertainment department shall determine the estimated
7 amount of a film production tax credit. The state investment
8 council shall establish guidelines for the state investment
9 officer's initiation of a loan and the terms of the loan.

10 E. As used in this section:

11 (1) "film project" means a single media or
12 multimedia program, including advertising messages, fixed on
13 film, videotape, computer disc, laser disc or other similar
14 delivery medium from which the program can be viewed or
15 reproduced and that is intended to be exhibited in theaters;
16 licensed for exhibition by individual television stations,
17 groups of stations, networks, cable television stations or
18 other means; or licensed for the home viewing market; and

19 (2) "New Mexico film private equity fund"
20 means any limited partnership, limited liability company or
21 corporation organized and operating in the United States
22 that:

23 (a) has as its primary business
24 activity the investment of funds in return for equity in film
25 projects produced wholly or partly in New Mexico;

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1 (b) holds out the prospects for
2 capital appreciation from such investments; and

3 (c) accepts investments only from
4 accredited investors as that term is defined in Section 2 of
5 the federal Securities Act of 1933, as amended, and rules
6 promulgated pursuant to that section."

7 Section 17. Section 9-15-4 NMSA 1978 (being Laws 1983,
8 Chapter 297, Section 4, as amended) is amended to read:

9 "9-15-4. DEPARTMENT ESTABLISHED.--There is created in
10 the executive branch the "economic development department".
11 The department shall be a cabinet department and shall
12 consist of, but not be limited to, [~~five~~] four divisions as
13 follows:

14 A. the administrative services division;

15 B. the economic development division;

16 [~~C. the New Mexico film division;~~

17 ~~D.~~] C. the technology enterprise division; and

18 [~~E.~~] D. the trade and Mexican affairs division."

19 Section 18. Section 15-3-6.1 NMSA 1978 (being Laws
20 2001, Chapter 195, Section 1) is amended to read:

21 "15-3-6.1. STATE PENITENTIARY--LEASE FOR MOTION
22 PICTURES.--The corrections department, the property control
23 division of the general services department and the [~~New~~
24 ~~Mexico film division of the economic development~~] media arts
25 and entertainment department shall enter into a joint powers

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1 agreement to make the old state penitentiary at Santa Fe
2 available for use by the motion picture industry. The
3 property and structures that fall within the existing
4 security perimeter fence at the old state penitentiary at
5 Santa Fe and any building not used by the corrections
6 department that is within three hundred yards of the outside
7 of the security perimeter fence of the old state penitentiary
8 at Santa Fe shall be made available for lease at reasonable
9 market rates to the motion picture industry for economic
10 development."

11 Section 19. Section 18-14-3 NMSA 1978 (being Laws 2003,
12 Chapter 250, Section 3, as amended) is amended to read:

13 "18-14-3. MUSEUM--LOCATION--PROPERTY.--

14 A. The "New Mexico film museum" is created within
15 the [~~cultural affairs~~] media arts and entertainment
16 department. The museum shall be located in Santa Fe.

17 B. All real or personal property held or
18 subsequently acquired for the operation of the museum shall
19 be under the control and authority of the board.

20 C. Funds or other property received as a gift,
21 endowment or legacy shall remain under the control of the
22 board and shall, upon acceptance, be used for the operation
23 of the museum."

24 Section 20. Section 18-14-4 NMSA 1978 (being Laws 2003,
25 Chapter 250, Section 4, as amended) is amended to read:

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1 "18-14-4. BOARD--APPOINTMENT--TERMS--OFFICERS.--

2 A. The "board of trustees of the New Mexico film
3 museum" is created.

4 B. The board shall consist of eleven members who
5 are residents of New Mexico, appointed by the governor with
6 the advice and consent of the senate. In making the
7 appointments, the governor shall give due consideration to
8 the geographic distribution of the members' places of
9 residence. The members shall be persons who have expertise
10 or have demonstrated a continuing interest in the fields of
11 film, filmmaking or museums; provided that one of the members
12 shall be the director of the [~~New Mexico~~] film division of
13 the [~~economic development~~] media arts and entertainment
14 department or the director's designee.

15 C. The board members shall be appointed for terms
16 of four years or less so that all terms are coterminous with
17 the current term of the governor who appointed them. The
18 board members shall serve at the pleasure of the governor.

19 D. The [~~secretary of cultural affairs or the~~
20 ~~secretary's~~] executive director of the media arts and
21 entertainment department or the executive director's designee
22 shall be an ex-officio nonvoting member of the board.

23 E. The president of the board shall be designated
24 by the governor and shall serve in that capacity at the
25 pleasure of the governor. Other officers shall be elected

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1 annually by the board at its first scheduled meeting after
2 July 1 of each year."

3 Section 21. A new section of the New Mexico Film Museum
4 Act is enacted to read:

5 "[NEW MATERIAL] FILM MUSEUM FUND--CREATED--PURPOSE.--The
6 "film museum fund" is created as a nonreverting fund in the
7 state treasury. The fund consists of appropriations, gifts,
8 grants, donations and money earned by the New Mexico film
9 museum through ticket sales, concessions, leasing of the
10 theater in which the New Mexico film museum is housed and the
11 sale of other goods and services. The fund shall be
12 administered by the media arts and entertainment department,
13 and money in the fund is appropriated to the film museum
14 bureau of the film division to operate the New Mexico film
15 museum. Disbursements from the fund shall be by warrant of
16 the secretary of finance and administration upon vouchers
17 signed by the director of the film division or the director's
18 authorized representative."

19 Section 22. TEMPORARY PROVISION--TRANSFERS.--

20 A. On the effective date of this act, all
21 functions, personnel, appropriations, money, records, files,
22 furniture, equipment, supplies and other property of the New
23 Mexico film division of the economic development department
24 are transferred to the media arts and entertainment
25 department.

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underscoring material = new
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1 B. On the effective date of this act, all
2 functions, personnel, appropriations, money, records, files,
3 furniture, equipment, supplies and other property of the New
4 Mexico film museum and the board of trustees of the museum
5 are transferred to the media arts and entertainment
6 department.

7 C. On the effective date of this act, all
8 contractual obligations of the New Mexico film division of
9 the economic development department are binding on the media
10 arts and entertainment department.

11 D. On the effective date of this act, all
12 contractual obligations of the New Mexico film museum or the
13 board of trustees of the New Mexico film museum are binding
14 on the media arts and entertainment department.

15 E. On the effective date of this act, all
16 references in law to the New Mexico film division of the
17 economic development department are deemed to be references
18 to the media arts and entertainment department.

19 F. On the effective date of this act, all
20 references in law to the New Mexico film museum or the board
21 of trustees of the New Mexico film museum are deemed to be
22 references to the media arts and entertainment department.

23 Section 23. APPROPRIATION.--Five hundred thousand
24 dollars (\$500,000) is appropriated from the general fund to
25 the department of finance and administration for expenditure

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underscored material = new
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1 in fiscal year 2008 to establish the media arts and
2 entertainment department. Any unexpended or unencumbered
3 balance remaining at the end of fiscal year 2008 shall revert
4 to the general fund.

5 Section 24. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2007.